



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Masaaki KURIHARA et al.

Group Art Unit: 1756

Application No.: 10/614,345

Examiner: J. RUGGLES

Filed: July 8, 2003

Docket No.: 123770

For: PHASE MASK FOR FORMING DIFFRACTION GRATING, METHOD OF
FABRICATING PHASE MASK AND METHOD OF FORMING DIFFRACTION
GRATING

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

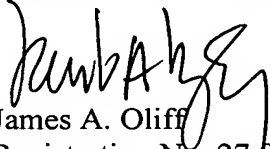
In reply to the May 2, 2005 Restriction Requirement, Applicants provisionally elect
Group I, claims 1-12, with traverse.

It is also respectfully submitted that the subject matter of all claims 1-14 is sufficiently
related that a thorough search for the subject matter of any one Group of claims would
encompass a search for the subject matter of the remaining claims. Thus, it is respectfully
submitted that the search and examination of the entire application could be made without
serious burden. See MPEP §803 in which it is stated that "if the search and examination of an
entire application can be made without serious burden, the examiner must examine it on the
merits, even though it includes claims to independent or distinct inventions" (emphasis
added). It is respectfully submitted that this policy should apply in the present application in
order to avoid unnecessary delay and expense to Applicants and duplicative examination by
the Patent Office.

In addition, Applicants submit that the claims of Group I include a product (a phase mask) and the claims of Group II include a method of using that product. Accordingly, upon allowance of the product claims, the method claims must be rejoined and examined. *See* MPEP §821.04. To avoid the delay and expense of sequential prosecution of the claims of Group I and Group II, Applicants request that the claims of Group II be rejoined presently.

For the foregoing reasons, reconsideration and withdrawal of the Restriction Requirement are respectfully requested.

Respectfully submitted,


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JAO:JAD/tje

Date: June 2, 2005

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